

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julian Phillips	Team: Squad #6	CCRB Case #: 201805847	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury		
Incident Date(s) Wednesday, 07/04/2018 9:22 PM	Location of Incident: in front of § 87(2)(b)		Precinct: 62	18 Mo. SOL 1/4/2020	EO SOL 1/4/2020
Date/Time CV Reported Wed, 07/04/2018 9:36 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 07/19/2018 8:23 AM		

Complainant/Victim	Type	Home Address

[illegible]

Subject Officer(s)	Shield	TaxID	Command
1. POM Jelinson Martinez	00301	955135	062 PCT
2. An officer			062 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. CPT Anthony Longobardi	00000	923451	062 PCT
2. SGT Emanuel Iskhakov	551	947779	062 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
3. LT Salman Asghar	00000	934426	062 PCT
4. POF Danielle Valentine	23221	957240	062 PCT
5. POM Francisco Acosta	30047	949964	062 PCT
6. POM Nicholas White	09083	961446	062 PCT
7. SGT Heriberto Hernandez	01584	932167	062 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jelinson Martinez	Force: Police Officer Jelinson Martinez struck § 87(2)(b) with a vehicle.	
B. An officer	Abuse: An officer threatened to arrest individuals.	

Case Summary

On July 4, 2018, § 87(2)(b) filed this complaint with the NYPD's Internal Affairs Bureau via telephone, generating the original log number 2018-26034. On July 19, 2018, IAB forwarded this complaint to the CCRB.

On July 4, 2018, at approximately 9:22 p.m., in the vicinity of § 87(2)(b) in Brooklyn, Captain Anthony Longobardi and Police Officer Jelinson Martinez, both of the 62nd Precinct, approached a crowd of civilians. The crowd included § 87(2)(b) her husband § 87(2)(b) her siblings § 87(2)(b) and § 87(2)(b) her mother § 87(2)(b) and family friends and neighbors, including § 87(2)(b) and § 87(2)(b). While attempting to drive away from the scene, PO Martinez allegedly struck § 87(2)(b) with a police vehicle (**Allegation A: Force**, § 87(2)(g)). An officer threatened to arrest a crowd of civilians at the scene (**Allegation B: Abuse of Authority**, § 87(2)(g)). Multiple individuals were arrested, including § 87(2)(b)'s brothers, § 87(2)(b) and § 87(2)(b).

There was video footage of this incident. The original footage can be located in Investigative Action 36, and a summary can be located in Investigative Action 126.

Findings and Recommendations

Allegation (A) Force: Police Officer Jelinson Martinez struck § 87(2)(b) with a vehicle.

It is undisputed that PO Martinez and Capt. Longobardi apprehended § 87(2)(b) on suspicion of detonating fireworks and escorted him to their vehicle. It is further undisputed that a number of individuals surrounded the officers' vehicle and verbally protested § 87(2)(b)'s arrest.

Mobile phone video footage (Board Review 18), recorded by § 87(2)(b) and provided to the CCRB by § 87(2)(b) shows individuals surrounding the officers' vehicle and shouting. The footage further records an officer announcing over the vehicle's loudspeaker, "Get out of the way," and a male individual immediately thereafter stepping in front of the vehicle. The vehicle makes a small motion forwards (consistent with being placed into "drive" mode), and a male individual is audible yelling that someone has been hit. The footage does not show the front of the vehicle.

§ 87(2)(b) testified (Board Review 01) that he stood approximately six to 12 inches in front of the officers' vehicle after § 87(2)(b) was placed inside. As the officers were entering the vehicle, Capt. Longobardi said to PO Martinez, "Go through them." The vehicle drove forward and "tapped" § 87(2)(b)'s knee, causing him to fall to the ground. § 87(2)(b) did not seek medical treatment.

Telephone statements were obtained from § 87(2)(b) (Board Review 02), § 87(2)(b) (Board Review 03), § 87(2)(b) (Board Review 04), and § 87(2)(b) (Board Review 05). Additionally, sworn statements were obtained from § 87(2)(b) (Board Review 06), § 87(2)(b) (Board Review 07), § 87(2)(b) (Board Review 08), and § 87(2)(b) (Board Review 09). These witnesses were consistent in asserting that the officers' vehicle struck § 87(2)(b) causing him to fall to the ground.

§ 87(2)(b) who was a passenger in the officers' vehicle at the time of the incident, provided a telephone statement (Board Review 10). § 87(2)(b) denied that the officers' vehicle struck § 87(2)(b) although he stated that § 87(2)(b) subsequently fell to the ground when he was approached by Capt. Longobardi.

PO Martinez testified (Board Review 11) that he placed the vehicle in “drive” mode and moved the vehicle forward approximately one inch. The nearest civilians were several feet in front of the vehicle at this time, and PO Martinez denied striking anyone with the vehicle.

Capt. Longobardi testified (Board Review 12) that, while PO Martinez may have placed the vehicle in “drive” mode, PO Martinez did not drive forward while § 87(2)(b) was standing in front of the vehicle. Capt. Longobardi stated that he did not believe that PO Martinez struck anyone with the vehicle, and denied hearing anyone complain of being struck by the vehicle.

There were no other officers on scene at this point in the incident.

§ 87(2)(g)

Allegation (B) Abuse of Authority: An officer threatened to arrest individuals.

It is undisputed that, after Capt. Longobardi and PO Martinez placed § 87(2)(b) inside their vehicle, numerous additional officers arrived on the scene. As discussed in the analysis of Allegation A, above, members of the crowd surrounded Capt. Longobardi and PO Martinez’s vehicle to prevent the officers from arresting § 87(2)(b) and transporting him from the scene.

Video footage (Board Review 20) recorded by § 87(2)(b) and provided to the CCRB by § 87(2)(b) records audio of a distant male voice shouting, “If you don’t get on the sidewalk, you are going to be arrested.”

§ 87(2)(b) and § 87(2)(b) both testified that an officer, who they could not identify or describe, stated that individuals would be arrested if they did not stand on the sidewalk.

§ 87(2)(b) and § 87(2)(b) did not report that an officer threatened to arrest individuals on scene.

Capt. Longobardi and PO Martinez testified that they did not know of any of the additional responding officers issuing directions to the crowd of civilians.

New York Penal Law, section 195.05 (Board Review 19), notes that a person is guilty of obstructing governmental administration (OGA) when he or she “prevents or attempts to prevent a public servant from performing an official function.”

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) was a party (Board Review 13).
- This is the first CCRB complaint to which § 87(2)(b) was a party (Board Review 14).

- PO Martinez has been a member-of-service for five years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming “personal and physical injuries; an unlawful seizure; false arrest and imprisonment; malicious prosecution; abuse of process; negligence; intentional and negligent infliction of emotional distress; harassment unconstitutional conditions of confinement... [and] a deprivation of his constitutional, civil, and common law rights” and seeking \$1,000,000 as redress (Board Review 15). There is no 50H hearing scheduled.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 16).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 17).

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date